

Filed: November 15, 2005
Staff: Trever Parker
Staff Report: December 2, 2005
Hearing Date: December 14, 2005
Commission Action:

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO: 2005-13

APPLICANT (S): US Cellular

AGENT: Thomas McMurray

PROJECT LOCATION: Trinidad Head
Trinidad, CA 95570

PROJECT DESCRIPTION: Design Review, Coastal Development Permit and Conditional Use Permit to establish a new, approximately 25' x 50' communication facility just to the north of the existing communications site. The site will include a 50' wooden pole with 2 sets of Cellular Panel Antennas, a 12' x 12' equipment shelter on a concrete slab all surrounded by a green vinyl slat 6' tall fence topped with barbed wire.

ASSESSOR'S PARCEL NUMBER: 042-121-05

ZONING: OS – Open Space

GENERAL PLAN DESIGNATION: OS – Open Space

ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per § 15303 of the CEQA Guidelines exempting new construction of small structures.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project **X** is is not appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

Trinidad Head is zoned OS – Open Space with a variety of roads, trails, benches, signs and vista points. Other existing improvements include a communication facility, the Coast Guard Lighthouse and NOAA air monitoring sites. This project includes establishing a new communications site approximately 20' to the northwest of the existing Call North Cellular site. The existing communication facility was redeveloped by Cal-North in 1997, with additions in 2000 and 2001. Previously it had been some sort of cable television transmission site. There is currently a 41' pole and a 21' pole, a small equipment shed and two transmitter cabinets. There is also a 6' fence, topped with barbed wire, with two separate gates, that surrounds the site. Cal-North subleases the site to other communication companies (Sprint and Edge Wireless). The NOAA weather station site is located approximately 20' north of the proposed communication site and contains a trailer and several other structures and a variety of weather monitoring equipment. The site also appears to be utilized by other entities as well (i.e. Scripts Institute). The new site will be located adjacent to the existing access road. The project, as shown on the site plan will not require the removal of any trees in the vicinity, but some shrubs will have to be removed. Utilities will be provided underground from the existing pole across the road from the proposed site.

STAFF COMMENTS:

The City Council has approved the general concept of this project, and if approved by the Planning Commission, will enter in to a new lease outlining the terms of the use of the site. The applicant has provided a site plan and elevations detailing the proposed project. Referrals for this project were sent to the City Engineer, Building Official and Coastal Commission. The Engineer did not have any specific comments on the project at this level of review, but noted that he could respond to any specific concerns. The Building Official noted that a building permit would be required for the equipment shelter. The Coastal Commission has submitted a letter commenting on this project. They have concerns about cumulative impacts on aesthetics and coastal resources as well as past interpretations of the City's Local Coastal Plan (LCP). They acknowledge that some of the zoning ordinance provisions are open to some interpretation, so that this project could be allowable, but they urge the City to prepare an overall management plan for communication facilities on the Head prior to approving any more projects. Through this process it was noted that the weather monitoring facilities on the Head have been increasing without any notice to the City or consistency determination with the Coastal Commission, which is required through the Federal Coastal Zone Management Act. Coastal Commission staff have indicated that they will be writing letters to the appropriate federal agencies reminding them of their responsibilities.

Background

Trinidad Head was transferred to the City in 1983 from the Bureau of Land Management (BLM). That transfer included several commitments by the City. One was *"to develop and manage the lands for recreational purposes in accordance with the approved*

program of utilization that includes (1) a plan of development, and (2) a plan of management.” The City’s development plan, according the BLM staff report “*proposes non-intensive recreational use of the Head, including hiking, viewing, picnicking, and associated day-use activities.*” The entire consistency analysis for the transfer was based on this management plan. The documents also include a provision that “*the property would revert to the U.S. Government if the City did not use the property for its approved and intended use, tried to transfer title to another party...*”; this includes any subdivision. There is a provision in the City’s management plan that was submitted to the BLM that states: “*The City will continue to coordinate with the Cable T.V. company and any future, similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation.*” This, along with General Plan policies and Open Space zoning regulations, gives the Planning Commission some standards and basis for approval of this project, and should a part of the findings used to make a decision on this project.

Based on file information, it appears that the existing communication site was developed as a cable television site prior to the annexation of the Head in 1983; the weather station was also partially developed at that time. I am lacking information on what occurred between the time of annexation and the 1997 Cal North Cellular pole approval. The staff report for that project describes an existing pole and equipment building on the site at the time. Further additions to the existing site (in the form of new equipment) were approved in 2000, 2002 and 2003. Cal North subleases for co-located facilities on their site with Sprint and Edge Wireless. However, according to the applicant, the existing site has reached its capacity and a new, or expanded site is necessary to accommodate more cellular facilities and services. The applicant has stated that U.S. Cellular’s current service in the Trinidad area is inadequate, and this new pole will eliminate existing problems. The proposed site has been located to the north of the existing cellular site, between that and the weather station, in order to minimize visual impacts and vegetation removal while maintaining accessibility.

Because of its location and topography, Trinidad is an ideal location for the construction of these types of facilities, and more proposals should be expected in the future. As part of the current project, staff recommends that U.S. Cellular should be required to allow co-location of additional facilities in the future to the maximum extent feasible; this has been made a condition of approval. Staff also recommends that the Planning Commission make an official recommendation to the City Council that they create a detailed development / management plan for communication facilities on the Head prior to any further development. Trinidad Head is an important coastal, aesthetic, and cultural resource and has been slated for low-intensity recreation and open space by regulating agencies. As stated above, the Coastal Commission has concerns about the impacts of this, and similar, projects on coastal resources, and the City should also be concerned. The City should consider the cumulative impacts of these types of projects on the Head and make a determination of how much will be allowed in order to provide guidance and a basis for decision-making on future proposed projects.

ZONING ORDINANCE/GENERAL PLAN CONSISTANCY:

The proposed facility falls under the City's, and Coastal Act's definition of development, and does not fall under any exemptions from permit requirements. Therefore it needs a Coastal Development Permit and Design Review. Because the Head is zoned Open Space, a use permit is also required, and conditional use permit findings per §17.72.040 need to be made. The purpose of the Open Space zone is to: *"maximize preservation of the natural and scenic character of these areas including protection of important wildlife habitat and cultural resources, and to ensure that the health and safety of the public is ensured through careful regulations of development in areas affected by geologic instability, steep slopes, tsunami and flood hazards."* Principally permitted uses in the OS zone include low intensity recreation such as hiking and picnicking and removal of hazardous vegetation, but no structural development. Uses permitted with a use permit include trails and vista points, wildlife habitat management, scientific research, removal of vegetation and shoreline protection structures. Applicable to this project, conditionally permitted uses also include: *"Structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in this title is adopted."* As noted above, the communication and weather sites were established in some form prior to the annexation of the property into the City of Trinidad. Based on past project approvals, this provision has been interpreted to mean the use of the site in general by communication facilities that provide a public service. This was fairly straightforward in the four most recent approvals because they were all contained within the fenced area of the existing site. Although this project is a related use, and adjacent to areas of the Head that are already developed, it is somewhat different from previous approvals in that it will be a new site. Staff feels that based on past approvals and existing file information and LCP provisions, the project allowable under existing ordinance provisions as long as all the required findings can be made. Staff also advised the applicant that one of the alternate proposed sites, south of the existing Cal-North site, was not consistent with the open space zoning and character and that it should not be considered; the current proposed site has been designed in consultation with staff and is within the already "developed" portion of the Head.

Minimum lot size does not apply to this project; subdivisions are not allowed in Open Space zones. Density restrictions also do not apply to this project, and no new dwellings are allowed in an Open Space area. The maximum building height within the OS zone is 15', which the equipment building will meet. The antenna is not a "building" subject to this limitation. However, zoning ordinance §17.16.060 states that all structures allowed in the OS zone must also meet the requirements of the Special Environment regulations, §17.20.060 – 17.20.130. Section 17.20.060 restricts building heights to 25 feet. As mentioned above, the pole is not a building, but the OS zone §17.16.060 refers other structures to this section, implying that it may be a height limit for any structures. Section 17.56.100 of the zoning ordinance provides further guidance on measuring height. This section reads: *"Heights of buildings and structures shall be measured vertically from the average ground level of the ground covered by the building to the highest point of the roof. Chimneys, vents, flagpoles, conventional television reception antennas, ventilating and air conditioning equipment, parapet walls and similar*

architectural and mechanical appurtenances shall be excluded in making such measurement.” The transmission antenna could be considered to fit in to the second section as a ‘mechanical appurtenance’ or similar to a flagpole or T.V. antenna. As far as the other applicable SE zone regulations, the project is not within the tsunami hazard area, not on an ocean bluff, not on a slope near a bluff, not in a stream protection area and not within the Tsurai Study Area. Section 17.20.120 requires that portions of a SE zoned lot not within a construction area be protected by an open space easement between the landowner and the City. In this case, the property is already protected through the open space zoning and the City owns the property, so this section is not applicable. Section 17.20.130 outlines requirements for development on lands designated as unstable or of questionable stability; which this project is not.

Zoning Ordinance §17.16.080 protects cultural resources and applies to Open Space areas within the Tsurai Study Area. Although this project is not within the specified area, another cultural protection provision applies. The transfer of the Trinidad Head property included a condition regarding archeological resources, which has been included as a condition of this project approval. *“After the vegetation is removed, and prior to any construction (primarily trails and vista points), those areas not previously surveyed for cultural values shall be surveyed by a qualified archeologist. If cultural resources are discovered during any phase of construction, the holder shall immediately notify the Authorized Officer at... (address). The holder shall not disturb such resources except as may be subsequently authorized by the Authorized Officer. The Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect cultural resources discovered.”* It is unclear at this point who the authorized officer referred to, therefore, staff has included a standard condition of approval used in CEQA documents to achieve the same purpose.

The General Plan Policy 17 (p. 15) encourages minimizing development on Trinidad Head in order to protect rare plants and animals that exist there. Trinidad Head has been identified in General Plan background documents as being habitat for the Western Lily (*Lilium occidentalis*), and possibly other rare plants as well. The Western Lily is a federally and state listed “endangered” species. Therefore, a condition of approval has been included that the site and the surrounding area be surveyed for rare plants by a qualified professional. Policy 66 (p. 39) states that: *“Trinidad Head will be kept in its natural state with hiking trails and vista points.”* This project is not fully consistent with this policy. But based on the City’s management plan for the Head and other development on the Head that provides a public service, this project can be approved as long as it is sited, designed and mitigated so that it does not detract from the recreational use of the Head and its open space character.

Finding: The proposed use provides a public service and meets a public need. The proposed use does not conflict with the primary purposes of open space and public recreational use of the Head. The project is consistent with the City’s Local Coastal Program, including the Zoning Ordinance and General Plan.

SLOPE STABILITY

The property where the proposed project is located is outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan. Standard erosion control and drainage best management practices will be required during construction.

SEWAGE DISPOSAL

There is no sewage disposal associated with this project.

USE PERMIT FINDINGS:

Section 17.72.040 requires written findings to be adopted in approval of a use permit. The following findings can be made based on the responses provided:

- A. The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community. *Response: Trinidad Head is undeveloped except for the Coast Guard facilities, a weather monitoring station, the existing communications site and public trails, benches and vista points. The proposed project is within the general area that is already developed and will provide a public service. It will not be any more visible than existing improvements and will not interfere with public recreational uses.*
- B. Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:
 - 1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures; *Response: The proposed site will be located adjacent to existing development and access road at the top of the Head where there are no recreational facilities. It will be fenced to keep people out.*
 - 2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading; *Response: Vehicular access on the Head is restricted for the general public. The site will be located next to an existing access road and will not significantly increase or affect traffic patterns on the site.*
 - 3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor; *Response: The proposed improvements will not result in any offensive emissions, including noise, glare, dust and*

odor. Some dust may result from construction activities, but this will only be temporary. The mechanical equipment will be required to be contained within the proposed building, which will be designed to minimize any noise impacts. The applicant is responsible for assuring that equipment noise not leave the site and increase existing ambient noise levels.

4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs; *Response: The applicant has stated that the site will not require landscaping or screening because it will not be visible from existing trails, benches or vista points. If the Commission finds that landscaping is necessary, it should be of native species that are normally found on the Head. Traffic is addressed above. The project does not include any lighting or signs.*
- C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program. *Response: As described above in "Zoning Ordinance/General Plan Consistency," the proposed project can be found to be consistent with both the Zoning Ordinance, General Plan and the City's management plan for the Head, and will carry out policies, consistent with the Trinidad Coastal Program.*
- D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment. *Response: The proposed improvements will be within a small area. Conditions of approval have been included in order to minimize potential impacts. The project is exempt from CEQA per §15303, exempting new construction of small structures.*
- E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:
1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses; *Response: The project will utilized existing access roads and will not impact public access or the existing trail system.*
 2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast; *Response: Tall vegetation already existing around the site will screen most of the improvements except the pole. The pole can be found to not significantly*

impact coastal views, but cumulative impacts of other communication / weather facilities should be considered.

3. The development is compatible with the established physical scale of the area; *Response: The project will be located within the area of the Head that is already developed with a variety of structures and equipment serving a public purpose.*
4. The development does not significantly alter existing natural landform; *Response: Only minor disturbance of the soil will be required to construct the proposed improvements.*
5. The development complies with shoreline erosion and geologic setback requirements. *Response: Trinidad Head is not an area mapped as being unstable or questionably stable on Plate 3 of the General Plan. The project will not be near the edge of bluff; the proposed improvements will not contribute to instability.*

DESIGN REVIEW/VIEW PRESERVATION FINDINGS:

This project is subject to the Design Review and View Preservation criteria set by Zoning Ordinance Section 17.60. The following findings can be made based on the responses provided.

Design Criteria

- A. The alterations of natural land forms caused by cutting, filling and grading shall be minimal. Structures should be designed to fit the site rather than altering the land form to accommodate the structure. *Response: Only minor disturbance of the soil will be required to construct the proposed improvements.*
- B. Structures in, or adjacent to open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible. *Response: The project is located in an open space area, but improvements other than the pole will not be readily visible from public trails or vista points. The site will be fenced with green vinyl slats.*
- C. Materials and colors used in construction shall be selected for compatibility both with the structural system of the building and with the appearance of the building's natural and manmade surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided. *Response: The proposed improvements are consistent with nearby development.*
- D. Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area

shall be used. *Response: The proposed project will not be readily visible from public trails and vista points. Several large trees and shrubs are adjacent to the site and will help screen it. The applicant has not proposed additional landscaping, and it can be found to be unnecessary for this project.*

- E. On-premises signs should be designed as an integral part of the structure and should complement or enhance the appearance of the surrounding area. *Response: The project does not include any on-premise signs.*
- F. New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials. *Response: The proposed improvements will utilize an underground electrical connection to the existing pole across the access road from the proposed site.*
- G. Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should have a single design theme. *Response: No off-premise signs are proposed as part of this project.*
- H. When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. *Response: The proposed building will be only 120 s.f.. In particular:*
1. Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.
 2. Residential and commercial developments involving multiple dwelling or business units should utilize clusters of smaller structures with sufficient open space between them instead of a consolidated structure.

View Protection Criteria

- A. Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible. *Response: The project is located within an open space area, but, other than the pole, will not be readily visible from public trails and vista points as it will be screened by existing vegetation and existing development. The proposed site has been moved as far to the north as possible in order to avoid visual impacts.*
- B. Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista

points, except as provided in subdivision 3 of this subsection. *Response: The proposed improvements will not significantly block views.*

- C. The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility; and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction. *Response: There is no residence proposed as part of this project.*
- D. If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected. *Response: There is no residence proposed as part of this project.*
- E. The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards. *Response: The proposed improvements are not within 100' of the Tsurai Village Site, Trinidad Cemetery, Holy Trinity Church or the Memorial Lighthouse.*

STAFF RECOMMENDATION:

The project is consistent with the City's Zoning Ordinance and General Plan and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the Use Permit and Design Review/View Protection Findings can be made, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application materials, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings and approve the project as submitted and as conditioned below.

Alternative Motion for Denial

If the Commission does not agree with staff's analysis, or if the public presents evidence that conflicts with the findings contained in this staff report, the Commission may choose to deny the project. If the Commission does decide to deny the project, the denial should be based on specific findings that can not be made. The Commissioners should specifically state the reasons for denial and which finding(s) can not be made. A motion could be similar to the following:

Based on public testimony and information included in the application, I find that Use Permit/Design Review/View Protection Finding(s) "---" can not be made because ---, and I move to deny the project.

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk prior to building permits being issued.*
2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and expiring thereafter if construction has not been started, unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk prior to building permits being issued.*
3. Recommended conditions of the City Building Official shall be required to be met as part of the building permit application submittal. *Responsibility: Building Official prior to building permits being issued.*
4. No trees over 6 feet in height are to be removed or damaged by this project. Any loss shall require replacement of similar species with a three-year replacement guarantee. The applicant shall replace any displaced vegetation outside of the fenced area with native landscaping. *Responsibility: City Planner to verify after site clearing and during construction.*
5. If any equipment installed as part of this project becomes unserviceable or unused, it must be removed at the applicant's expense. *Responsibility: City Planner to enforce should conditions warrant.*
6. Erosion control measures shall be taken during and after construction to minimize soil loss and runoff. *Responsibility: City Planner to verify after site clearing and during construction.*
7. The site and the surrounding area shall be surveyed for rare plants by a qualified professional prior to any ground disturbance or vegetation removal. If any special

status plants are identified, the applicant shall inform the City and the proposed site shall be relocated or the plants moved if feasible. *Responsibility: Building Official prior to building permits being issued.*

8. After the vegetation is removed, and prior to any other ground disturbing activities, the construction site shall be surveyed by a qualified archeologist. If cultural resources are discovered during any phase of construction, the holder shall immediately notify the City and local tribes. The holder shall not disturb such resources until reviewed by a qualified professional. Should concentrations of archaeological materials be encountered during construction or grading operations, all ground-disturbing work shall be temporarily halted or shifted to another area. Work near the archeological finds shall not be resumed until a qualified archeologist has evaluated the materials and offered recommendations for further action. Prehistoric materials which could be encountered include: obsidian or chert flakes or tools, locally darkened midden, groundstone artifacts, depositions of shell, dietary bone, and human burials. Should human remains be uncovered, State law requires that the County Coroner be contacted immediately. Should the Coroner determine that the remains are likely those of a Native American, the Tsurai Ancestral Society and the California Native Heritage Commission must be contacted. The Tsurai Ancestral Society shall determine the appropriate treatment of the remains. *Responsibility: Building Official prior to building permits being issued.*
9. The applicant shall design the equipment building and any other noise generating sources so that noise levels are not above pre-project ambient noise levels as measured at the southern boundary of the existing Cal-North Cellular site. *Responsibility: City Planner to verify after site is in operation and periodically as necessary.*